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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,931	12/12/2003	Kevin Woehr	51668/THD/K163	2243
23363	7590	10/23/2007		
CHRISTIE, PARKER & HALE, LLP			EXAMINER	
PO BOX 7068			GRAY, PHILLIP A	
PASADENA, CA 91109-7068				
			ART UNIT	PAPER NUMBER
			3767	
			MAIL DATE	DELIVERY MODE
			10/23/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/734,931

Applicant(s)

WOEHR ET AL.

Examiner

Phillip Gray

Art Unit

3767

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 November 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 and 33-47 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 and 33-47 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 May 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>See Continuation Sheet</u> . | 6) <input type="checkbox"/> Other: _____  |

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :3/19/07, 5/19/06,5/16/05,5/9/05,5/6/05,11/12/04,8/4/04,6/25/04.

Art Unit: 3767

## **DETAILED ACTION**

This office action is in response to applicants communication of 11/12/2004.

Currently claims 1-22 and 33-47 are pending and currently stand rejected. See below.

### ***Drawings***

New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because there are two inconsistent copies of drawings filed on 5/16/2005, which contain differing depictions and handwritten substance matter, then the originally filed drawings. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-12, 17-20, 33-43 and 47 are rejected under 35 U.S.C. 102(b) as being anticipated by Kulli (U.S. Patent Number 4,929,241). Kulli discloses a medical needle puncture guard which teaches a needle protector clip (see figure 2 for example) comprising a proximal wall (near 13) with opening (11) for a needle (14), with a first and second resilient arm (15 or 16) which extend distally from the proximal wall and wherein both the first and second resilient arms have a first and second arm section (as in arm 16, first arm section is near area 16 to where it connects to 13; and the second section is from 16 to the terminus area near 27), wherein the first arm section has a greater dimension than the second arm section dimension (see figure 2) and therein the first resilient arm crosses the second resilient arm at their respective second arm sections (as shown in figure 3 near points 29 which are situated on the second arm sections of the first and second resilient arms). Concerning claims 2-3 it is examiners position that Kulli element 30 is part of the clip and would be made of steel. Concerning claims 4-5 see width of element 13 as compared to element 26. Concerning claim 6 compare element 24 to 26 as in figure 3. Both the first and second resilient arms of Kulli have a distal wall (26 and 24 arm portions which overlap) with curved lips (unnumbered rounded portions extending therefrom as in figures 2 and 3). Concerning claims 11-12 it is examiners position that this clip is made from a unitary construction (see figure 1). Concerning claim 17, it is examiners position that the Kulli clip would function where the needle urges the arms radially outward (compare figure 2 to figure 3). Concerning claims 33-35 see side flaps with two side edges and a top edge shown in figure 5 (side

edge leg area around 115 and 116). Concerning claims 36-43 see Kulli element 30 (or 130) and finger 25 and 27.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 13-16, 21-22, and 44-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kulli (U.S. Patent Number 4,929,241) in view of Purdy et al. (U.S. Patent Number 5,215,528).

Kulli discloses the claimed invention except for where the needle protector clip is positioned and contacts in the interior cavity of a catheter hub that is attached to a needle hub with a needle with a bump or crimp. Purdy teaches that it is known to use a

Art Unit: 3767

needle protector clip positioned and contacts in the interior cavity of a catheter hub that is attached to a needle hub with a needle with a bump or crimp as set forth in abstract and paragraphs at columns 2-6 and specifically describing clip 58 in figures 5a and 5b to provide an effective means to cover the needle within a catheter needle assembly to prevent a "heath risk". It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system as taught by Kulli with a needle protector clip positioned and contacts in the interior cavity of a catheter hub that is attached to a needle hub with a needle with a bump or crimp as taught by Purdy, since such a modification would provide the system with the needle protector clip is positioned and contacts in the interior cavity of a catheter hub that is attached to a needle hub with a needle with a bump or crimp for providing an effective means to cover the needle within a catheter needle assembly to prevent a "heath risk".

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phillip Gray whose telephone number is (571) 272-7180. The examiner can normally be reached on Monday through Friday, 8:30 a.m. to 4:30 p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Sirmons can be reached on (571) 272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3767

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*PAS*  
PAG

KEVIN C. SIRMONS  
SUPERVISORY PATENT EXAMINER

*Kevin C. Sirmons*